

# Subrogation and your rights

## What is subrogation?

Subrogation allows your insurance company to recover the costs they've paid for your injury or property damage claims from the person legally liable for your injury or property damage.

For example, if your insurance company pays your doctor for your treatment following an auto accident and someone else was at fault for the accident, legally your company can seek reimbursement from the at-fault person (or his or her insurance company). However, if your insurer pays your medical bills and you accept payment for those same bills from the at-fault party, your company may seek reimbursement from you.

## Recovering your deductible

As a courtesy to you, your company may also include your deductible amount in its notice of subrogation to the at-fault party.

If your company does not collect 100 percent of the amount they demand, your policy may also allow for a "pro rata" refund of your deductible. Pro rata means your insurance company divides the recovered money proportionately between itself and you based on the amount you each paid out.

## Your obligations to your company in the subrogation process

During the subrogation process, your insurance company will expect your full and complete cooperation. You must notify your insurance company in advance if you intend to agree to a settlement with the at-fault person or their insurance company. This will ensure that you do not risk your company's right to subrogation.

These obligations should not interfere with your right to receive first consideration when it comes to receiving your benefits and full payment for the injury and damages you suffer.

## When companies cannot agree

Sometimes, companies can't agree on the amount owed, or even who is at fault. In this situation, the companies file inter-company arbitration. An independent insurance professional reviews both sides' facts and makes a decision. This decision is binding on both insurance companies, but it doesn't replace a ruling by a court of law. It can take up to six months to get a final arbitration decision. You can keep track of the process by staying in touch with your company's subrogation department.

## **When your company decides it is not worth their trouble to pursue the other insurance company or the at-fault party**

Your insurance company may decide the cost to pursue subrogation is more than they would recover, and decide not to pursue subrogation. Their decision does not stop you from pursuing recovery from the at-fault party or their insurance company on your own, or through legal action.

## **Subrogation and your consumer rights**

Previous court cases determined the insured person's financial interest comes before an insurance company. As a result, if the at-fault party's limits are not enough to cover your loss, your insurance company may not recover all of its payments.

Your insurance company also cannot deny paying you additional benefits under the terms of your policy while it waits for reimbursement.

### **The Office of the Insurance Commissioner can help you!**

If you have any questions or need additional information about your rights as an insurance consumer, call our Insurance Consumer Hotline at

**1-800-562-6900**

or visit our Web site at

**<http://www.insurance.wa.gov/>**